THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.3267 of 1999

Dated: 05.12.2007

Between:

Executive Engineer, NSR Division,
Nizamabad. .. Petitioner.

And

Syed Mahaboob Pasha
and others. .. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.3267 of 1999

ORDER:

This writ petition is filed challenging the order made in MP.No.5 of 1996, dated 27.07.1998, on the file of the 2nd respondent-Labour Court II, Hyderabad.

2. Petitioner is the management and 1st respondent is the workman. It appears, 1st respondent-workman was terminated from service by petitioner-management, and aggrieved by the same, he raised an Industrial Dispute in ID.No.12 of 1992 and the same was disposed of on 02.11.1993 directing the management to reinstate him into service without break in service, but without backwages, and the said award attained finality.

3. The grievance of the workman is that he was not reinstated into service as per the award passed by the Labour Court in ID.No.12 of 1992, and therefore, he had filed M.P.No.5 of 1996, under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short, 'the Act') before the 2nd respondent claiming wages for the period he was not offered employment i.e., from 13.12.1993 to 03.03.1996.

4. The management resisted the application filed by the petitioner in MP.No.5 of 1996 saying that the workman did not work physically during the period for which he is claiming the wages and, so, he is not entitled for any wages during that period, on the well settled principle

of “No work, No pay”.

5. After considering both oral and documentary evidence, the 2nd respondent-Labour Court found that there was no plausible reason to show that the workman did not work during the period for which he is claiming wages in spite of offering employment to him. In fact, the workman joined duty pursuant to the letter issued by the management in the month of March, 1996, and that he was denied employment from 13.12.1993 to 03.03.1996, and thus, came to the conclusion that the management is liable to pay Rs.30,007/- to the workman, being the wages from 13.12.1993 to 03.03.1996, as he was entitled for reinstatement from that day.

6. On perusal of the impugned order, I am of the opinion that no ground is made out calling for interference of this Court under Article 226 of the Constitution of India. The order passed by the Labour Court in MP.No.5 of 1996 is purely based on facts and it is neither called perverse nor contrary to the evidence placed before it. Therefore, this writ petition is devoid of merits and is liable to be dismissed.

7. Accordingly, writ petition is dismissed, and the 3rd respondent, being the legal heir of the 1st respondent-workman (who died pending the writ petition) is entitled to withdraw half of the amount already deposited by the petitioner-management without furnishing any security, and for the remaining amount, if it is not deposited by the petitioner, the 3rd respondent is entitled to file an execution petition for the same. No costs.

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(C.V.RAMULU,J)

Dt.05.12.2007

v v